

Message Text

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ACTION STR-07

INFO OCT-01 EA-10 IO-13 ISO-00 STRE-00 AGRE-00 CEA-01
CIAE-00 COME-00 DODE-00 EB-08 FRB-03 H-01 INR-10
INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-01 CTME-00
AID-05 SS-15 ITC-01 TRSE-00 USIA-06 SP-02 SOE-02
OMB-01 DOE-11 EUR-12 /127 W
-----074092 111320Z /53

P 101655Z MAR 78
FM USMISSION GENEVA
TO SECSTATE WASHDC PRIORITY 7068
INFO AMEMBASSY TOKYO

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USMTN

ACTION STR

PASS STR ELECTRONICALLY STR PASS CODEL

EO 11652: N/A
TAGS: ETRD, GATT, MTN
SUBJECT: US/JAPAN BILATERAL MEETING OF MARCH 9, 1978
ON JAPANESE EXCLUSIONS

1. JAPANESE DEL (TAMORI, ET AL) BEGAN DISCUSSION BY
ATTEMPTING TO ESTABLISH PRECEDENTS FOR EXCLUSIONS FROM
TARIFF NEGOTIATIONS. HE CITED US KENNEDY ROUND EXCLUSIONS
BASED ON 50 PERCENT NON-GATT SUPPLIERS AND JAPANESE KENNEDY
ROUND EXCLUSIONS BASED ON NATIONAL SECURITY OR PUBLIC
SAFETY. HE SAID THAT, WHILE THERE HAS NEVER BEEN AN
ESTABLISHED RULE GOVERNING EXCLUSIONS AND THAT JAPAN IS
NOT ATTEMPTING TO RELATE ITS EXCLUSIONS DIRECTLY TO
SPECIFIC GATT ARTICLES, JAPAN DOES BELIEVE THAT EXCLUSIONS
CAN BE JUSTIFIED. HE POINTED OUT THAT CURRENT JAPANESE
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EXCLUSIONS DO NOT INCLUDE ITS KENNEDY ROUND EXCLUSIONS
SUCH AS SILVER AND GOLD, NARCOTICS, CERTAIN TYPES OF
AIRCRAFT, PARACHUTES AND GLIDERS.

2. US DEL (MCNAMARA, MOORE, CASSIDY) TOOK POSITION THAT
KENNEDY ROUND PRECEDENTS ON EXCLUSIONS ARE NOT VERY
RELEVANT FOR OUR CONCERNS IN MTN TODAY. IN US VIEW,

JAPANESE EXCLUSIONS FALL INTO THREE CATEGORIES: (A) PETROLEUM; (B) NATIONAL DEFENSE ITEMS SUCH AS BOMBS AND WARSHIPS; THAT IS, ITEMS FOR WHICH IMPORTS ARE NOT MUCH AFFECTED BY TRADE BARRIERS; AND (C) EXCLUSIONS OF ITEMS FOR WHICH DUTIES AFFECT THEIR LEVEL OF IMPORTATION. THE US BELIEVES THAT ITS POSITION ON PETROLEUM AND CERTAIN RELATED PRODUCTS IS WIDELY HELD AND IS NOT SIGNIFICANTLY DIFFERENT FROM THAT OF JAPAN. US EXAMINATION OF JAPANESE PETROLEUM EXCLUSIONS TENDS TO BEAR THIS OUT.

3. US DEL COVERED JAPANESE EXCLUSIONS ITEM BY ITEM AND EMPHASIZED US POSITION ON FOLLOWING POINTS:

(A) THUS FAR IN MTN, JAPAN APPEARS TO BE ONLY COUNTRY WITH LARGE LIST OF EXCLUSIONS AND ONLY ONE WITH NON-PETROLEUM EXCLUSIONS.

(B) IN INTRODUCTION TO JAPANESE TARIFF OFFER, ATTEMPT IS MADE TO JUSTIFY EXCLUSIONS UNDER GATT ARTICLES XVII, XX, AND XXI. US WOULD LIKE TO KNOW WHICH ARTICLES OR PARTS OF ARTICLES APPLY TO EACH ITEM EXCLUDED.

(C) JAPAN'S EXCLUSIONS APPEAR TO BE AIMED AT IMPORTS FROM THE US. US SHARE OF JAPAN'S NON-PETROLEUM EXCLUSIONS IS ALMOST 500 MILLION DOLLARS OR 82 PERCENT.

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(D) US IS PARTICULARLY CONCERNED ABOUT JAPANESE EXCLUSIONS OF AIRCRAFT, AIRCRAFT ENGINES AND PARTS, NUCLEAR REACTORS, HELICOPTERS, AND HUNTING RIFLES AND AMMUNITION, MANY OF WHICH RECEIVE GSP PREFERENCES.

4. US DEL STRESSED THAT JAPANESE PARTIAL OFFER ON AIRCRAFT EXCLUDES AIRPLANES WEIGHING MORE THAN 20,000 POUNDS. THIS DISCRIMINATES AGAINST THE BULK OF US EXPORTS OF AIRCRAFT TO JAPAN WHICH AMOUNTED TO 160 MILLION DOLLARS IN 1976 AND 250 MILLION DOLLARS IN 1975. SIMILAR JAPANESE EXCLUSION OF ENGINES (BASED ON ENGINE SIZE) WILL ADVERSELY AFFECT US EXPORTS OF THESE ITEMS WHICH AMOUNTED TO OVER 80 MILLION DOLLARS OF EXPORTS TO JAPAN IN 1976. US DEL POINTED OUT THAT JAPAN HAS ALSO EXCLUDED AIRCRAFT ENGINE PARTS (53 MILLION DOLLARS OF IMPORTS FROM US IN 1976). THESE EXCLUSIONS IN THE AIRCRAFT SECTOR, WHICH INVOLVE OVER 300 MILLION DOLLARS OF 1976 US EXPORTS, CONSTITUTE A SERIOUS DEPARTURE FROM THE TOKYO DECLARATION AND THE SPIRIT OF THE STRAUSS/USHIBA COMMUNIQUE--ESPECIALLY SINCE THE US HAS OFFERED DUTY-FREE TREATMENT ON ALL TARIFF LINES RELATING TO AIRCRAFT.

5. US DEL ALSO POINTED OUT THAT JAPANESE HAVE EXCLUDED

FROM TARIFF CUTS NUCLEAR REACTORS, PARTS, AND FUEL, ALL OF WHICH ARE IN ONE TARIFF LINE (845906). RATIONALE FOR EXCLUSION OF NUCLEAR FUEL ELEMENTS MIGHT LEGITIMATELY FALL UNDER SOME NATIONAL DEFENSE CONSIDERATIONS, BUT SAME JUSTIFICATION FOR REACTORS AND PARTS DOES NOT APPEAR JUSTIFIED TO US.

6. JAPAN DEL RESPONDED TO US PRESENTATION ON EACH ITEM BY CITING GATT ARTICLE, THEN IMMEDIATELY DISAVOWING ANY DIRECT CONNECTION BETWEEN A GATT LEGAL EXCLUSION AND ACTION TAKEN IN EACH INSTANCE BY JAPANESE. ADDITIONAL JAPANESE ARGUMENTS USUALLY WERE ALONG LINES THAT JAPANESE BELIEVE DEFENSE ITEMS OR ANY ITEMS WHICH COULD BE DIVERTED

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-----074093 111320Z /53

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TO MILITARY PURPOSES (SUCH AS 747'S, NUCLEAR REACTORS, AIRCRAFT ENGINES) QUALIFY FOR EXCLUSION FROM NEGOTIATIONS. JAPAN DEL AGREED TO INFORM TOKYO IMMEDIATELY OF US CONCERNS ABOUT JAPANESE EXCLUSIONS AND AGREED TO CONTACT US DEL NEXT WEEK TO CONFIRM TENTATIVE DATE FOR NEXT MEETING ON MARCH 17.

7. COMMENT: JAPANESE POSITION ON EXCLUSIONS FOR NATIONAL SECURITY REASONS APPEARS TO DIFFER FROM MORE TYPICAL DESIRE OF A COUNTRY TO PROTECT ITS DOMESTIC PRODUCTION AGAINST INCREASED IMPORTS BY CITING NATIONAL DEFENSE REASONS. JAPANESE APPEAR TO BE ARGUING THAT A TARIFF REDUCTION OR ZERO DUTY BINDING WILL LEAD TO A PROLIFERATION OF IMPORTS OF GOODS WHICH CAN BE DIVERTED TO MILITARY

PURPOSES AND THEREFORE WOULD BE OF USE TO CRIMINALS AND
TERRORIST ORGANIZATIONS. US DEL POINTED OUT THAT CONTROL
MEASURES SUCH AS REGISTRATION AND MONITORING WOULD BE
MORE EFFECTIVE AND LESS ONEROUS THAN MAINTAINING A
DISCRIMINATORY TAX ON IMPORTS. END COMMENT.

8. DRAFTED BY MOORE. CULBERT
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: MEETINGS
Control Number: n/a
Copy: SINGLE
Draft Date: 10 mar 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978GENEVA03808
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780109-0849
Format: TEL
From: GENEVA USMTN
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780384/aaaacsrw.tel
Line Count: 183
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 9bafacc9-c288-dd11-92da-001cc4696bcc
Office: ACTION STR
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 05 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: N/A
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3376642
Secure: OPEN
Status: NATIVE
Subject: US/JAPAN BILATERAL MEETING OF MARCH 9, 1978 ON JAPANESE EXCLUSIONS
TAGS: ETRD, JA, GATT, MTN
To: STATE
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/9bafacc9-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014